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THE CORPORATION TRUST COMPANY AND ASSOCIATED COMPANIES

In the incorporation, qualification and statutory representation of corporations, The Corporation Trust Company, C T Corporation System and associated companies deal with and act for lawyers exclusively.

With this issue, The Corporation Journal rounds out forty years devoted to furnishing current data relating to corporations to attorneys and others interested in corporation matters.

Recent Decisions

THE GREAT QUESTION

It requires no great skill to make the regular routine transfers of a company's stock. But any corporation—large or small—its stock closely held or widely distributed—eventually is faced with the transfer of shares of a decedent's stock. Then the great question arises, "What and where is the authority for this transfer?" Supporting papers must be present—complete and in order. A company's officers may be responsible for any damage the decision may cause the rightful owner. In such instances, The Corporation Trust Company's many years of experience can be a bulwark of strength to you.

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What Constitutes Doing Business

Show Rooms—Exhibition of Goods

Where a show room has been maintained in a state by an unlicensed foreign corporation for the purpose of securing orders for the shipment into the state of goods similar to those demonstrated, the trend of decisions indicates that qualification has not been required under such circumstances. (*Larkin Co. v. Commonwealth*, 172 Ky. 106, 189 S. W. 3,—traveling showrooms; *Eastman v. Tiger Vehicle Co.*, (Texas) 195 S. W. 336,—display space at state fair.)

However, where activities are carried on within a state, in addition to the mere securing of orders through the exhibition of goods, it has been ruled that qualification would be necessary. (*Dalton Adding Machine Co. v. Commonwealth*, 246 U. S. 498, 38 S. Ct. 361.)

Similarly, where a question as to the liability to annual taxes was under consideration under circumstances where an unlicensed foreign corporation had entered a state and exhibited its goods at a given place with the object of securing orders which were to be filled by the shipment of goods into the state to the customer in interstate commerce, such activity in furthering interstate commerce has been held not to subject the corporation to the following types of annual taxes: Income tax: *Curlee Clothing Co. v. Oklahoma Tax Commission*, 68 P. 2d 834; Excise tax: *Cheney Bros. Co. v. Massachusetts*, 246 U. S. 147; License tax: *Dennison Mfg. Co. v. Wright*, 156 Ga. 789, 120 S. E. 120; Occupation license tax: *Best & Co., Inc. v. Maxwell*, 311 U. S. 454, 61 S. Ct. 334.

In *Cheney Brothers Company v. Massachusetts*, 246 U. S. 147, the Supreme Court of the United States said:

> "The maintenance of the Boston office and the display therein of a supply of samples are in furtherance of the company's interstate business and have no other purpose. Like the employment of the salesmen, they are among the means by which that business is carried on and share its immunity from state taxation."

It may be added, with regard to the doing of business by an unlicensed foreign corporation for the purpose of service of process upon it, a similar classification of liability and non-liability is to be found to exist. There, the mere maintenance of a showroom for the taking of orders, to be filled by interstate shipments, ordinarily has resulted in the setting aside of the service. (*Brandon v. Murray & Tregurtha Corp.*, 196 N. Y. S. 293; *Trautman v. Taylor-Adams Co., Inc.*, 252 N. Y. S. 701); while if additional activities are carried on within the state, service of process has been upheld. (*Wilken v. Moorman Mfg. Co. et al.*, 235 N. W. 671; *Bomze v. Nardis Sportswear, Inc.*, 165 F. 2d 33.)

Domestic Corporations

Mississippi.

Action on note, executed as an accommodation by an advertising service corporation, dismissed as to both company and its president, who signed the note, as company was not empowered by charter to assume obligations as an accommodation to others. Defendant corporation had executed a note to the appellant, signed by defendant's president, upon which suit was brought against the corporation and its president and vice-president. The appellant took the position that if the corporation was not liable for any reason, short of fraud, which was not asserted, then the president, who had signed the note for the company, was liable. The evidence revealed that there was no consideration for the execution of the note and that it was authorized as an act of accommodation to a third party. The Supreme Court of Mississippi noted that while the president was duly authorized to execute the note as president, the company lacked the power to bind itself thereby, as it was organized for the sole purpose of conducting an outdoor advertising service, and not empowered by its charter to execute notes or assume obligations as an accommodation to others. The court concluded that the Chancellor had been correct in dismissing the bill, both as to the company and as to the president. The court found authority in Mississippi to apply the rule that there is no implied warranty by an agent that his principal has authority to make a contract signed by the agent; and the agent, acting within the scope of his authority, is not answerable upon such a contract where his principal is not bound by it merely because he had no authority to enter into the particular contract. *Ketcham v. Mississippi Outdoor Displays, Inc., et al.*, 33 So. 2d 300. Alexander, Alexander & Chill of Jackson, for appellant. Lotterhos, Travis & Dunn and Wm. Harold Cox, all of Jackson, for appellees.

New York.

Where the by-laws of a corporation provided that a majority of the board of directors should call special meetings of the stockholders when requested in writing by stockholders representing not less than one-half of the stock, court holds majority of board could not ignore request of holders of more than one-half of the stock to call a special meeting or enjoin the holding of such a meeting. The by-laws of defendant corporation provided that special meetings of stockholders, other than those regulated by statute, might be called at any time by a majority of the directors. They also provided that the board of directors should, in like manner, call a special meeting of stockholders whenever so requested in writing by stockholders representing not less than one-half of the stock of the corporation. One of the defendants was the owner of more than one-half of the capital stock of the company. Through his attorney-in-fact he requested the board of directors to call a special meeting

of the stockholders for certain definite purposes. The plaintiffs, who constitute a majority of the board at the time of the request, and who sought in this action to enjoin the holding of such special meeting, did not comply with the request and subsequently a notice of a special meeting of the stockholders was served upon the holders of all of the capital stock of the company by the attorney-in-fact mentioned. The New York Supreme Court, Special Term, Queens County, Part I, ruled that, in view of the provision of the by-laws of the company respecting special meetings of the stockholders, plaintiffs, as a majority of the board, could not be permitted to successfully ignore the request of the holders of more than one-half of the company's capital stock. Plaintiffs' motion to restrain the holding of the meeting was accordingly denied and a temporary injunction issued was ordered dissolved. *Maurer v. J. A. Maurer, Inc.*, 76 N. Y. S. 2d 150. Barr, Bennett & Fullen, of New York City, for plaintiff. Coudert Bros., of New York City, for defendant.

Section 39, Stock Corporation Law, ruled not to apply to a reclassification of stock which resulted in an elimination of certain accrued, undeclared, unpaid dividends on shares of first preferred stock. Plaintiffs sought a declaratory judgment to the effect that Section 39 of the Stock Corporation Law, dealing with preemptive rights, was not applicable to a reclassification of defendant's capital stock, which resulted in an elimination of certain accrued, undeclared, unpaid dividends on shares of its preferred stock. Upon an examination of its charter, the New York Supreme Court, Special Term, New York County, Part III, concluded that there could not be read into the charter an obligation on the part of the corporation to pay dividends which had not been declared and that no debtor-creditor status was established. In denying the plaintiffs' motion for judgment and dismissing the complaint, the court applied the rule in *McNulty v. W. & J. Sloane*, 184 Misc. 835, 54 N. Y. S. 2d 253, (The Corporation Journal, May, 1945, page 348) where it was held that Section 39 was valid and that accrued, undeclared dividends did not give rise to a debtor and creditor relationship between the shareholder and the corporation and that such dividends were accordingly subject to elimination upon reclassification under Section 39 of the Stock Corporation Law. *Arnstein et al. v. Robert Reis & Co.*, 77 N. Y. S. 2d 303. Lewis, Kanter, Rassner & Bermas (Lloyd B. Kanter, of counsel) of Brooklyn, for plaintiffs. Maurice B. & Daniel W. Blumenthal, of New York City, for movant, Fritzie Blumenthal. Satterlee, Warfield & Stephens, of New York City (Lloyd F. Thanhouser, of counsel), of New York City, for defendant.

Federal court denies motion for dismissal of complaint in suit where security was sought under Section 61-b, General Corporation Law, regarding facts as justifying the furnishing of security. Section 61-b, General Corporation Law, was recently under consideration before the United States District Court, Eastern District of New York. That section provides, in substance, that in a derivative action by stockholders of less than 5% of the outstanding shares of any

class of stock or voting trust certificates, where the value of the shares held by the plaintiff is less than $50,000, the defendant corporation is given the right to require the plaintiff to give security for the reasonable expenses, including attorneys' fees, which may be incurred by defendant in connection with the action and by the other defendants for which it may become subject. Upon a motion of defendant to dismiss the complaint and in the alternative to require plaintiff to deposit security for reasonable expenses, the court denied the motion to dismiss and granted a motion to compel plaintiff to furnish security under the following circumstances: It was shown that the legal title to a voting trust certificate was in the name of a nominee, the plaintiff, of a firm which had the equitable title. Title had been placed in plaintiff's name in 1942, the statute requiring security had been enacted in 1944 and the action was begun in 1947. It appeared that the plaintiff and the equitable owners were residents of New Jersey and the company was a New York corporation. The court concluded that the transfer to plaintiff could not be regarded, under the facts, as a device by which plaintiff could go into the Federal court. Plaintiff owned about 2% of the outstanding stock and defendants requested a bond in the sum of $50,000. The court reached the conclusion that the value of plaintiff's holdings came exactly within the purpose of the policy of the State of New York and that this Federal court should avail itself of this policy in regard to the giving of security, providing the facts appeared to justify the requirement of such security. Regarding the security sought as not excessive or unreasonable, judgment on the motions was given for the defendants. *Donovan v. Queensboro Corporation et al.*, 75 F. Supp. 131. Breed, Abbott & Morgan, by Charles H. Tuttle, of New York City, for defendants, for the motion. Clark & Reynolds, by Edward F. Clark, of New York City, for plaintiff.

Quebec.

Dominion company's reorganization plan, approved by large majority, which provided for exchange of preferred stock, on which there were accrued unpaid dividends, for new second preferred shares under conditions having effect of postponing payment of such accumulated arrears of dividends, disapproved by Quebec court. Section 122 of the Dominion Companies Act, 1934 (Can.), Ch. 33, provides for the reorganizing of the capital structure of companies. The reorganization plan in question provided for the replacing of the existing preferred shares of $50 par value carrying a $2 a year cumulative dividend by an equal number of first preferred shares of $49 par value, carrying an equal cumulative dividend, and wiping out of the accrued dividends of $21 on the old preferred shares and giving the holders thereof an equal number of $1 par value of second preferred shares entitled to cumulative dividends of 50¢ a year in lieu of the accumulated arrears of dividends amounting to $21 on the original preferred shares. A sinking fund of one-half (½) of the profits after payment of expenses and dividends on the first preferred

shares was established to retire the second preferred shares periodically by lot at $21 a share. These second preferred shares were evidently created to compensate the original shareholders for the loss of the accumulated dividends to which they were entitled. The common shareholders were to retain the same number of shares and were not called upon to give up anything. The Quebec Superior Court remarked that the arrangement was for the sole benefit of the common shareholders. It examined the circumstances surrounding the approval of the plan by a large majority, including the fact that a large number of shareholders who voted for it were necessarily influenced by their holdings of common shares, and the representations furnished to shareholders concerning the plan, some of which the court regarded as misleading or contrary to the true situation. The court stressed that "the interested parties must be given fair information before the meeting, for *at the meeting, the directors have already the favourable proxies in their possession,* and the votes must be given in the interest of the class to which the voter belongs and must not be influenced by other interest." Disapproving the plan, the court concluded: "Seeing that insufficient and incorrect and misleading information was given to the shareholders, that the legal majority was not voted in the interest of the class of preferred shares, the arrangement is in the sole interest of the common shareholders and is unfair; the Court doth revise and annul the judgment of December 22, 1947 approving the arrangement, doth refuse to approve and doth disapprove it, with costs against the company." *Re St. Lawrence Corp. and Mayr,* (1948) 2 D. L. R. 107. J. E. L. Duquet, for petitioner. John Ahern, K. C., for contestant.

Foreign Corporations

California.

Unlicensed foreign corporation, making sales to dealers in state who sold to their own customers, where salesman of corporation entered state once or twice a year to interview prospective customers, ruled not doing business for purpose of service of process in federal court. Defendant Washington manufacturing corporation sought to quash service of summons upon it in an action which had been transferred to the federal court upon diversity of citizenship. The company's customers in California were dealers who placed their orders with and bought direct from the defendant for their own accounts, shipments being made from Washington to fill these orders. The corporation had one salesman residing in Washington who visited prospective customers in the various western states once or twice a year. No installation, engineering or maintenance service was performed in California and no sales were made by him in that state for the account of the corporation. No stock was maintained by the company in California. The United States District Court for the Northern District of California, Northern Division, concluded that the facts disclosed that defendant did not engage in the regular,

continued and sustained course of business in California necessary to constitute doing business there and that its activities were casual or occasional. The service of summons was ordered quashed. *Cowan v. Young Iron Works et al.*, United States District Court, Northern District of California, Northern Division, January 28, 1948. Commerce Clearing House Court Decisions Requisition No. 385107.

Louisiana.

Where state was divided into two federal court districts, and suit was begun by a non-resident of the state against a licensed foreign corporation and a partnership consisting of two individuals not residents of district in which suit was brought, Supreme Court of the United States affirms judgments dismissing action, as venue statute requirements were not satisfied. Section 51 of the Judicial Code provides that "where the jurisdiction is founded only on the fact that the action is between citizens of different states, suit shall be brought only in the district of the residence of either the plaintiff or the defendant." This general provision is qualified by Section 52 of the Judicial Code, which states that "if there are two or more defendants, residing in different districts of the state, . . . (suit) may be brought in either district." The sole question related to the construction of the term "residence" as it applied to one of the defendants, a foreign corporation licensed in Louisiana. The suit was instituted in the Federal District Court for the Eastern District of Louisiana. It was brought by a Mississippi resident against that corporation and a partnership, whose individual members were residents of the Western District of Louisiana. It was conceded that the foreign corporation was amenable to suit, by reason of being qualified, in either the Eastern or Western District of Louisiana. The critical issue was whether the foreign corporation could be regarded as a "resident" of the Eastern District of Louisiana, within the meaning of Section 52 of the Judicial Code, so that the partnership and its individual members might be properly sued as co-defendants of the corporation in the Eastern District of Louisiana, despite the fact that respondents were residents of the Western District of that State. The Supreme Court of the United States affirmed the lower courts in granting a motion to dismiss the action on the ground of improper venue, observing: "Section 51 in general terms provides that a diversity suit of the sort involved here must be brought either in the district in which the plaintiff resides or in which the defendant resides. This suit, brought in the Eastern District of Louisiana, satisfies neither requirement." The court concluded that the foreign corporation might not be regarded as a resident of the Eastern District of Louisiana, in which the suit was brought. *Suttle v. Reich Bros. Construction Co. et al.*,* Supreme Court of the United States, March 8, 1948; Docket No. 214. Commerce Clearing House Court Decisions Requisition No. 387241; 68 S. Ct. 587, 900.

* The full text of this opinion is printed in the CCH **New York Corporation Law Reporter, page 9096.**

New York.

Mere allegation of doing business by unlicensed foreign corporation, not established by evidence, ruled insufficient as a defense in suit by corporation. Defendant copartners, sued by an unlicensed Massachusetts company, alleged in their answer that the contract of sale between the parties was made in New York and that prior thereto plaintiff failed to obtain a certificate of authority as required by Section 218 of the General Corporation Law. The New York City Court, Special Term, Part I, observing that the affidavit submitted in opposition to plaintiff's motion to strike out this defense contained hearsay and general statements, but no evidentiary facts to support them, concluded that the defense was insufficient and granted the motion. *M. M. Mades Company, Inc. v. Gassman,** 77 N. Y. S. 2d 236. Commerce Clearing House Court Decisions Requisition No. 388215.

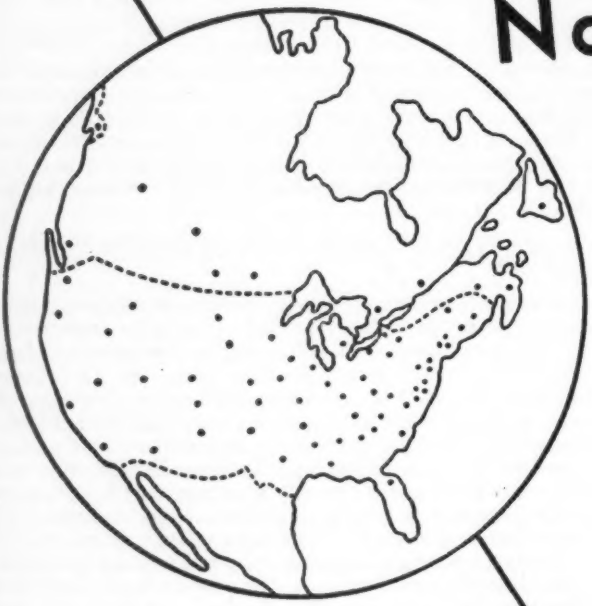
* The full text of this opinion is printed in the CCH **New York Corporation Law Reporter**, page 9102.

Unlicensed foreign corporation, having no office or officers in state, ruled not required to produce its books and records for examination or discovery and inspection. The following is the opinion of the Supreme Court, New York County, Special Term, Part I: "Motion for an examination before trial is denied without prejudice to an application for an examination upon written interrogatories or upon an open commission. The defendant is a nonresident foreign corporation located in Chicago, Illinois. It has no office or officers in New York City or state, nor is there any evidence that it is licensed to do business in this state. Under such circumstances and especially where the defendant is asking no affirmative relief, the courts will generally not compel a foreign corporation to produce its books and records in this state for examination or discovery and inspection. (*Berwin v. Newman*, 267 App. Div. 815; *Probst v. Frankel*, 240 App. Div., 504.)" *Goldman v. Ideal Steel Products, Inc.,** 119 N. Y. L. J. 700.

* The full text of this opinion is printed in the CCH **New York Corporation Law Reporter**, page 9102.

Court of Appeals indicates Sec. 218 G. C. L., does not apply to arbitration proceedings. The Court of Appeals of New York has unanimously affirmed, without opinion, the decision of the Appellate Division in *Tugee Laces, Inc. v. Mary Muffet, Inc.*, 75 N. Y. S. 2d 513, (mentioned on page 113 of The Corporation Journal, March, 1948), which reversed, without opinion, 73 N. Y. S. 2d 803. The result of the Court of Appeals' decision is to indicate that Section 218 of the General Corporation Law does *not* apply to arbitration proceedings and thus rejects the rule laid down by the Supreme Court, Special Term, New York County, in the case of *In re Vanguard Films, Inc. et al.*, 67 N. Y. S. 2d 893, 188 Misc. 796, (Corporation Journal, October, 1947, page 9), where an unlicensed foreign corporation had been denied the use of the state courts in an arbitration proceeding.

North-Ea



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"CT COVERS THE CONTINENT"

South Carolina.

Federal court rules that inactivity of licensed foreign corporation in state at time of service upon its duly appointed agent does not constitute a ground for quashing service of process upon it. Defendant, a foreign corporation which had been licensed as such in South Carolina for more than twenty years, moved to quash summons and service of process upon it, effected by serving its duly appointed process agent. The service was challenged principally upon the ground that defendant was not actively engaged in the performance of its business in South Carolina at the time of the accrual of the cause of action or at the time of service. The United States District Court, W. D., South Carolina, observed that "whether or not defendant was about its business in the state at the time of the accrual of the transitory cause of action would not be material," remarking that the validity of the service controls the question of jurisdiction. After an examination of the pertinent statutes, under which defendant had agreed that it could be found at a specified location as its principal place of business, represented there by an appointed agent for the service of process upon it, the court said: "To hold that its presence in the state at a particular time would be dependent on whether or not it is then actively performing its business would disregard its agreement to *remain present there* and introduce into that agreement a limitation not warranted by the language of the statute. It would also introduce a differentiation between such foreign corporations and other qualified foreign corporations whose activities are continuous. Such a differentiation would have no logical foundation. As long as the statutory agreement continues in force, the complying foreign corporation remains continuously present within the state, regardless of what its activities may consist of at any particular time." The court concluded that the service of summons was sufficient to confer jurisdiction on the defendant. *Ezell v. Rust Engineering Co.*, 75 F. Supp. 980. Carlisle, Brown & Carlisle of Spartanburg, for plaintiff. Osborne, Butler & Moore of Spartanburg, for defendant.

Taxation

Illinois.

Federal stamp tax on sales and transfers of stock ruled applicable to issuance of stock by corporation surviving merger, effected in accordance with Illinois law, to stockholders of merging corporation. The plaintiff Illinois corporation sought to recover from the Collector of Internal Revenue payment of a stamp tax levied under a provision of the Internal Revenue Code imposing a tax on sales and transfers of shares or certificates of stock of a corporation. Plaintiff was the survivor of a merger with another Illinois company. Under the terms of the merger the holders of stock of a merging corporation were to surrender their outstanding 5405 shares for the 1500 shares of

the preferred stock and 3800 shares of the common stock of the surviving corporation, the new shares to be issued in proportion to the holdings in the old company. The Commissioner assessed a documentary stamp tax against the plaintiff surviving company on the ground that in substance the statutory merger gave the merging corporation the right to receive stock in the surviving company, which right the merging corporation had in substance transferred to its stockholders. The Federal District Court gave judgment for the plaintiff for the amount paid, plus interest, holding that a taxable transfer by the merging corporation had not occurred, and the Government appealed. "The question presented to us," said the United States Circuit Court of Appeals, Seventh Circuit, "is whether the issue by the taxpayer of its stock to the former stockholders of the merging corporation, pursuant to a merger plan adopted by the corporation and approved by the stockholders of both, all in accordance with the procedure prescribed by the Illinois statutes, involved a transfer by the merging corporation of the right to receive stock, within the meaning of the statute." The court reversed the judgment of the District Court, ruling the transaction was taxable, remarking: "As we understand the taxpayer, when the merger took place in the instant case in accordance with the Illinois statute, the merged corporation went out of existence and had no right to receive any stock from the surviving corporation and therefore had nothing to be transferred to its former stockholders. By this same operation, it is claimed, the old stockholders became, ipso facto, stockholders of the taxpayer. It was all accomplished by the alchemy of corporate fictions. Tax statutes are brutally realistic. They are rarely, if ever, thwarted by fiction. Before the merger was approved by the Secretary of State and while the merging corporation was still in existence, the merging corporation agreed by adopting and approving the plan of merger that in return for the surrender of its corporate assets to the surviving corporation, the quid pro quo was the issuance by the taxpayer of its stock to the then stockholders of the merging corporation. This effected the transmutation of the two corporations into one and effected at the same time the creation of but one group of stockholders. If the merging corporation had no right to receive the stock, it seems clear that its former stockholders did, and they received the stock, all by virtue of and in accordance with a plan approved by the merging corporation and its stockholders. Since the statute is not to be read narrowly, this seems to us a 'transfer' within the meaning thereof." *American Processing & Sales Co. v. Campbell,* 164 F. 2d 918. Sewall Key and Morton K. Rothschild, Assts. to the Atty. Gen., Helen R. Carloss and Hilbert P. Zarky, Sp. Assts. to the Atty. Gen., J. Albert Woll, U. S. Atty., Joseph M. Solon, Asst. U. S. Atty., and Otto Kerner, Jr., U. S. Atty., of Chicago, Ill., for appellant. Herman A. Fischer and Carlton L. Fischer, of Chicago, Ill., for appellee.

Texas.

Texas Supreme Court rules 5% monthly revival fee is to be collected on franchise tax from date of forfeiture, and 5% per month on the tax for each subsequent year from the date of delinquency to the date of payment. In *Gulf Union Oil Company v. Isbell et al.*, 205 S. W. 2d 105, (The Corporation Journal, January, 1948, page 73), the Texas Court of Civil Appeals, Austin, ruled that 5% monthly penalty provided for by Article 7092, R. C. S. 1925 upon the revival of the right of a corporation to do business, following the forfeiture of that right for failure to pay its franchise tax, was to be computed only on the tax due at the time of forfeiture for a period not exceeding six months from the date of forfeiture. Upon appeal, the Texas Supreme Court has reversed this ruling. The court upheld the Secretary of State in his construction of the statute, based upon opinions of the Attorney General, in collecting the 5% per month revival fee on the franchise tax from the date of forfeiture, and 5% per month on the tax for each subsequent year from the date of delinquency to the date of payment. In the course of its opinion, the court remarked: "The respondent had a right to do business after the Secretary of State entered on the records kept in his office relating to corporations the words 'right to do business forfeited,' as provided for in Article 7091. The only right or privilege taken away from respondent by this act of the Secretary of State was its right to sue and defend in the courts of this State. It is liable for the franchise tax due each year, and this liability continues so long as the corporation remains undissolved, or until its charter is forfeited by legal proceedings." *Isbell et al. v. Gulf Union Oil Company*, Texas Supreme Court, March 3, 1948. Price Daniel, Attorney General, W. V. Geppert and C. K. Richards, Assistant Attorneys General, attorneys for petitioners. Cole, Patterson, Cole & McDaniel and Joseph Kircheimer, attorneys for respondents. Commerce Clearing House Court Decisions Requisition No. 387499; 209 S. W. 2d 762.

Appealed to the Supreme Court

The following cases previously digested in The Corporation Journal have been appealed to The Supreme Court of the United States.*

LOUISIANA. Docket No. 214. *Suttle v. Reich Bros. Construction Co. et al.*, 68 S. Ct. 587. Venue—"residence" of foreign corporation. **Petition for writ of certiorari filed, July 16, 1947. Affirmed, March 8, 1948.** (See page 168.) **Rehearing denied, April 19, 1948.** (68 S. Ct. 900.)

MISSISSIPPI. Docket No. 94. *Stone v. Memphis Natural Gas Co.*, 29 So. 2d 268. (The Corporation Journal, May, 1947, page 329.) State Franchise Tax—unlicensed foreign corporation doing interstate business. **Petition for certiorari filed, May 17, 1947. Certiorari granted June 16, 1947. Argued, December 8, 1947.**

* Data compiled from **CCH U. S. Supreme Court Docket, 1947-1948.**

Regulations and Rulings

CONNECTICUT—Articles purchased before April 1, 1948 are subject to sales tax at 3% unless delivery is made on or after April 1; in the latter case the 1% rate applies. If goods are billed and charged on or after April 1, the 3% still applies if the goods purchased are actually delivered to the customer before April 1. (Ruling of State Tax Commissioner, State Tax Reporter, Connecticut, ¶ 60-405.02.)

ILLINOIS—Rule 1 has been issued by the Department of Revenue. It defines co-operative associations and states such associations are deemed to operate for pecuniary profit and not engaged in a service occupation and that its receipts from all retail sales are subject to the Retailers' Occupation Tax. Agricultural co-operative associations, organized under the Agricultural Co-operative Act of 1923, are treated as not primarily engaged in rendering services and, hence, are likewise regarded as taxable on their retail sales. The Rule is mentioned as not representing a new policy on the part of the Department and as being issued for the purposes of clarification. (State Tax Reporter, Illinois, ¶ 60-121.)

MARYLAND—There is nothing in the Sales Tax Law which imposes a condition precedent to the running of interest on delinquent taxes, such as the giving of notice to the delinquent taxpayer by the Comptroller, but interest in the ordinary case may be charged from the date the delinquent tax was due and paid, regardless of the fact that such tax was voluntarily paid and without notice from the Comptroller. (Opinion of the Attorney General, State Tax Reporter, Maryland, ¶ 64-510.)

The value of spirituous or fermented liquors, cigarettes and the stock of food of restaurants should not be included in the stock in trade which constitutes the tax base in calculating the amount of the traders' license tax. (Opinion of the Attorney General to the Clerk of the Court of Common Pleas, Baltimore City, State Tax Reporter, Maryland, ¶ 45-503.)

MISSOURI—A foreign corporation commencing business in Missouri on or after January 1 is not required to pay the annual corporation franchise tax for the calendar year in which such business is commenced. (Opinion of the Attorney General to the Chairman, State Tax Commission, State Tax Reporter, Missouri, ¶ 5-008.)

TEXAS—Where notes were executed by a corporation to mature more than one year from the date of issue, in the course of improving real estate, and upon the sale of the improved property, payment of the notes was assumed by the purchasers, the notes thereafter did not constitute outstanding notes of the issuing corporation for franchise tax purposes within the meaning of Article 7084, R. C. S., as amended. (Opinion of the Attorney General to the State Auditor. State Tax Reporter, Texas, ¶ 5-301.28.)

Some Important Matters for June, July, August, September and October

This Calendar does not purport to be a *complete* calendar of all matters requiring attention by corporations in any given state. It is a condensed calendar of the more important requirements covered by the *State Report and Tax Bulletins* of The Corporation Trust Company. Attorneys interested in being furnished with timely and complete information regarding *all* state requirements in any one or more states, including information regarding forms, practices and rulings, may obtain details from any office of The Corporation Trust Company or C T Corporation System.

ARIZONA—Report to Corporation Commission and Registration Fee due during June.—Domestic and Foreign Corporations.

ARKANSAS—Anti-Trust affidavit due on or before August 1.—Domestic and Foreign Corporations.

Annual Franchise Tax due on or before August 10.—Domestic and Foreign Corporations.

CALIFORNIA—Quarterly Retail Sales Tax Returns and Payments due on or before July 31 and October 31.—Domestic and Foreign Corporations.

Franchise Tax based on net income. Second installment due on or before September 15.—Domestic and Foreign Corporations.

CONNECTICUT—Annual Report due on or before August 15 (if corporation was organized or qualified between July 1 and December 31 of any previous year).—Domestic and Foreign Corporations.

Quarterly Retail Sales Tax Returns and Payments due on or before July 30 and October 30.—Domestic and Foreign Corporations.

DELAWARE—Annual Franchise Tax due between April 1 and July 1.—Domestic Corporations.

DOMINION OF CANADA—Income Tax and Excess Profits Tax Return due on or before June 30.—Domestic and Foreign Corporations.

FLORIDA—Annual Report and Fee due on or before July 1.—Domestic and Foreign Corporations.

IDAHO—Annual Statement and Annual License Tax due between July 1 and September 1.—Domestic and Foreign Corporations.

ILLINOIS—Annual Franchise Tax due on or before July 1, but may be paid up to July 31 without penalty.—Domestic and Foreign Corporations.

INDIANA—Annual Report due within 30 days after June 30.—Domestic and Foreign Corporations.

Quarterly Gross Income Tax Returns and Payments due on or before July 31 and October 31.—Domestic and Foreign Corporations.

IOWA—Annual Report due between July 1 and August 1.—Domestic and Foreign Corporations.

Statement of Capital and Property Increase due at the time of filing the Annual Report in July.—Foreign Corporations.

IOWA (continued)

Report of Transfers of Stock due on or before July 1.—Domestic Corporations.

Quarterly Retail Sales Tax Returns and Payments due on or before July 20 and October 20.—Domestic and Foreign Corporations.

KENTUCKY—Statement of Existence due on or before July 1.—Foreign Corporations.

Verification Report as to process Agent due on or before July 1.—Domestic and Foreign Corporations.

List of Resident Stockholders and Bondholders due on or before August 1.—Domestic and Foreign Corporations.

LOUISIANA—Franchise Tax Report and Tax due on or before October 1.—Domestic and Foreign Corporations.

MAINE—Annual Franchise Tax due September 1; delinquent one month later.—Domestic Corporations.

MICHIGAN—Annual Report and Franchise Tax due during July and August.—Domestic and Foreign Corporations.

Report of Unclaimed Moneys, Securities, Credits, Etc., due on or before June 30.—Domestic and Foreign Corporations.

MISSISSIPPI—Annual Report and Fee to Factory Inspector due in July.—Domestic and Foreign Corporations employing 5 or more persons in Mississippi.

Annual Franchise Tax Report and Tax due on or before July 15.—Domestic and Foreign Corporations.

MISSOURI—Annual Registration Statement and Anti-Trust Affidavit due during July.—Domestic and Foreign Corporations.

Quarterly Retail Sales Tax Returns and Payments due on or before July 15 and October 15.—Domestic and Foreign Corporations.

MONTANA—Annual License Tax based on net income due on or before June 15.—Domestic and Foreign Corporations.

NEBRASKA—Annual Report and Franchise (Occupational) Tax due on or before July 1.—Domestic Corporations.

Annual Report and Franchise (Occupation) Tax due during July.—Foreign Corporations.

NEVADA—Annual List of Officers and Designation and Acceptance of Resident Agent due on or before July 1.—Domestic and Foreign Corporations.

NORTH CAROLINA—Annual Franchise Tax Report and Tax due on or before July 31.—Domestic and Foreign Corporations.

NORTH DAKOTA—Corporation Report due during July.—Domestic Corporations.

Quarterly Retail Sales Tax Returns and Payments due on or before July 20 and October 20.—Domestic and Foreign Corporations.

OHIO—Annual Franchise Tax due on or before July 15.—Domestic and Foreign Corporations.

Retail Sales Tax Returns and Vendors' Excise Tax due on or before July 31.—Domestic and Foreign Corporations.

OKLAHOMA—Annual Capital Stock Affidavit due between July 1 and August 1.—Foreign Corporations.

Annual License Tax Report and Tax due on or before August 31.—Domestic and Foreign Corporations.

OREGON—Annual Report due during June.—Domestic and Foreign Corporations.

Annual License Fee due within 30 days after July 15.—Domestic Corporations.

Returns of Withholding at the source due on or before July 30 and October 30.—Domestic and Foreign Corporations.

Annual License Fee due between July 1 and August 15.—Foreign Corporations.

RHODE ISLAND—Semi-Annual Report to Division of Industrial Inspection due in October and April.—Domestic and Foreign Corporations employing 5 or more persons in Rhode Island.

SOUTH DAKOTA—Quarterly Retail Sales Tax Returns and Payments due on or before July 15 and October 15.—Domestic and Foreign Corporations.

TENNESSEE—Annual Privilege (Franchise) Tax Return and Payment, Annual Report and Tax and Excise Tax Report and Tax due on or before July 1.—Domestic and Foreign Corporations.

Report of Dividends paid to residents due on or before July 1.—Domestic and Foreign Corporations.

UNITED STATES—Second and Third Installments of Income Tax due June 15 and September 15, respectively.—Domestic Corporations and Foreign Corporations having offices or places of business in the United States.

Withholding at source due on or before July 31 and October 31.—Domestic and Foreign Corporations.

WASHINGTON—License Fee due on or before July 1.—Domestic and Foreign Corporations.

WEST VIRGINIA—License Tax Statement due on or before July 1.—Domestic Corporations.

Annual License Tax due on or before July 1.—Domestic and Foreign Corporations.

Fee to State Auditor as Attorney in Fact due on or before July 1.—Foreign Corporations and those Domestic Corporations whose principal place of business or chief works are located in other states.

Quarterly Business and Occupation (Gross Sales) Tax Returns and Payments due on or before July 30 and October 30.—Domestic and Foreign Corporations.

WISCONSIN—Second Installment of Income Tax due on or before August 1.—Domestic and Foreign Corporations.

WYOMING—Annual Statement and License Tax due on or before July 1.—Domestic and Foreign Corporations.

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In connection with its various activities The Corporation Trust Company publishes the following supplemental pamphlets, any of which will be sent without charge to readers of The Journal. Address The Corporation Trust Company, 120 Broadway, New York 5, N. Y.

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